

Application No. 10/028,027  
Response dated April 22, 2005  
Reply to Office Action dated January 27, 2005

**REMARKS**

Claims 1 – 23 are presented for Examiner Kidwell's consideration.

Applicants thank Examiner Kidwell for her comments and consideration of the present application during a telephone call on April 14, 2005.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the following remarks is respectfully requested.

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### **Response to Rejections**

By way of the Office Action mailed January 27, 2005, claims 1 – 23 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated and thus unpatentable over U.S. patent number 5,635,191 to *Roe et al.* (hereinafter "*Roe*"). This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegall Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); M.P.E.P. § 2131. *Roe* fails to teach each and every element of claims 1 and 7 of the present invention, either expressly or inherently, and is therefore an improper basis for an anticipation reference. This rejection should be withdrawn.

The Examiner contends that *Roe* discloses the specifics of the composition as fully explained in the rejection of claim 7, thereby providing a composition that will yield similar results when subjected to the Tangent Delta Measurement Procedure. (OA at page 3). Applicants respectfully disagree with the Examiner's assertion because *Roe* does not disclose the composition of the present invention as discussed below.

Applicants' claim 7 requires a composition containing from about 0.1 to about 20 percent by weight **silicone elastomer**. The Examiner states that *Roe* discloses "from about 0.1 to about 20 percent by weight of silicone elastomer as set forth in col. 12, lines 29 – 61 and in col. 18, lines 7 – 17." (OA at page 4, emphasis added).

Applicants respectfully disagree. The compounds set forth in the cited section of *Roe* are fluids, waxes, fatty acids and fatty alcohol ethers, NOT **silicone elastomers**.

The Examiner further states that *Roe* discloses "the silicone elastomer of the composition to be selected from the listed group as set forth in col. 11, line 43 to col. 12, line 45." (OA at page 4, emphasis added).

Applicants respectfully disagree. The polysiloxane compounds set forth in the cited section must be flowable or can be made to be flowable. (col. 12: 12 – 14). The polysiloxane compounds disclosed in *Roe* are therefore NOT **silicone elastomers**.

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The Examiner states that "siloxane polymers as discussed by Roe are ultimately a form of silicone polymers as is the structure claimed by the applicant." (OA at page 5).

Applicants claim a composition including **silicone elastomer**. Roe discloses polysiloxane compounds that are fluids, waxes, fatty acids and fatty alcohol ethers which are **NOT silicone elastomers**.

The Examiner further states that "the term "silicone" has become a generic term which encompasses a variety of relatively high-molecular weight polymers containing siloxane units and hydrocarbyl groups of various types." (OA at page 5).

It does not matter whether the term "silicone" has become generic, Roe does NOT disclose **silicone elastomers**.

The Examiner further states that Roe "discusses the use of silicone elastomers as part of the surfactant as set forth in col. 18, lines 7 – 17." (OA at page 5, emphasis added).

Applicants respectfully disagree. The polyethers referenced appear to be liquids or waxes and therefore are **NOT silicone elastomers**.

The Examiner states that "it is noted that the features upon which applicant relies (i.e., crosslinked and branched structures versus linear ones) are not recited in the rejected claim(s)." (OA at page 5).

Applicants are not relying on limitations from the specification being read into the claims. Applicants simply note that **silicone elastomers** are highly cross-linked, branched polymers formed from polysiloxane linkages as described on page 27, line 32 through page 28, line 12 of Applicants' disclosure. **Silicone elastomers** are an element of each of Applicants' claims 6 – 23 and Roe does NOT disclose **silicone elastomers**.

Applicants also direct the Examiner's attention to claims 10, 11 and 12 which recite specific, named silicone elastomers. Roe does not disclose silicone elastomers generally and certainly does NOT disclose the specific silicone elastomers recited in claims 10, 11 and 12.

In conclusion, Roe fails to teach, either expressly or inherently, each and every element of Applicants' claim 7 and Applicants respectfully request the Examiner to withdraw this

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rejection. Claims 8 -- 23 depend from claim 7 and are patentable for at least the same reasons as claim 7 discussed above.

Because *Roe* does not disclose the composition of the present invention, the Examiner's contention regarding claim 1 is improper and the rejection should be withdrawn. Likewise, the rejections of claims 2 -- 6, which depend from claim 1, should be withdrawn.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-3016.

Respectfully submitted,  
MARTHA L. TATE ET AL.

By: 

David J. Anteman

Registration No.: 44,512